County Planning Series
No. 11

Farm Tenancy Law

This leaflet, the third dealing with farm tenancy in the County Planning Series, discusses the legal aspects of tenancy. It shows the importance of farm tenancy law in influencing conditions of tenancy and points to major improvements that may be obtained through changes in tenancy law. Readers interested in a more detailed discussion of this topic are referred to the chapter on Farm Tenancy Law in the publication, State Legislation for Better Land Use, issued by the United States Department of Agriculture.

FARM TENANCY problems in each State are rooted partly in the farm tenancy law which governs the operations and rights of tenants and landlords. Individuals and groups interested in improvement of farm tenancy conditions, therefore, may frequently wish to consider the possible need for improvements in laws relating to tenancy.

Farm tenancy law is complex. It is a combination of court decisions, constitutional provisions, legislative action, and of English common law which came to this country before the Revolution. In England itself, the common-law provisions relating to tenancy have been abandoned in favor of newer and more adequate law. The public demand for modernization of our own farm tenancy law, to fit it to present-day conditions and problems, is steadily growing.

Several States are already making needed changes in tenancy law. Many individuals and groups in other States are studying the law with the aim of seeking desirable adjustments. State and county land use planning committees, especially, have been interested in this work. In a number of States these committees and others have found the advice and assistance of county attorneys, local lawyers, and legal representatives of the Department of Agriculture helpful in studying the legal aspects of tenancy and in arriving at conclusions about the types of changes needed.

Action By States.

Each of the States that have thus far undertaken tenancy-improvement programs have first made a careful appraisal of

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their problems of tenancy. They have then tried to map out the changes in tenancy law that are needed to assist in obtaining improvements. The probable effects of proposed changes were considered thoroughly. On this basis, specific legislative action has been recommended in some States. Already a few of the State Legislatures have begun to put these recommendations into law.

In Iowa, definite action on tenancy law has been taken. Iowa's Tenancy Commission studied the State's problems of farm tenancy and made significant recommendations for bringing about improvement through legal measures. These included: (1) Automatic continuation from year to year of all agricultural leases, unless notice for termination is given by either party at least 6 months before the annual expiration date; (2) payment of disturbance compensation to the other party, when either the landlord or the tenant terminates a lease less than 6 months before the expiration date; (3) establishing the rights of an outgoing tenant to a reasonable compensation, within certain limits, for the unexhausted value of certain improvements he has made on the farm; (4) reasonable compensation to the landlord for damage to his property caused by the tenant's mismanagement or neglect; (5) submitting to arbitration, at either party's request, any differences arising between landlord and tenant, before any court action can be taken. It was recommended that the decision of the arbitrator be final and binding upon both parties (except in cases involving questions of law) when the sum involved does not exceed a certain amount. Several of these recommendations have now been enacted into law, with some changes.

Arkansas is another State where changes in tenancy law have been made recently. The last legislature passed a law recommended by the State Farm Tenancy Commission, making certain classes of State-owned land available for ownership by landless people. The Land Policy Act, as this law is known, provides for a classification of State-owned land, according to its suitability for private or for public use. Land classified as suitable for private ownership may be

sold, donated, or rented to individuals, in amounts judged suitable for family-sized farming units. Under this legislation, the State Land Commissioner's disposal of land is to be guided by the recommendations of the Land Use Committee of the State Planning Board as to the acreage of various types of land needed to provide a satisfactory family-sized farm.

Oklahoma provides still another example of action. The State has taken important steps in establishing desirable leasing practices on its school land, and has recently adopted policies to place suitable State-owned land into the hands of owner-operators.

In connection with the State land programs of both Arkansas and Oklahoma, small farmers are now finding it possible to obtain from the Farm Security Administration the credit needed for land purchases. Favorable land policies in these States are promoting farm-home ownership.

Constitutional limitations in some States stand in the way of homesteading or similar land policies. It should be noted, however, that if State-owned land in these States is to go into the hands of farm-home owners rather than of land speculators, the terms of land sale must be arranged so that farmers who are now tenants or laborers can buy it. If a large down-payment or a short repayment period is demanded by the State, it will be extremely difficult if not impossible for people with limited resources to obtain farms.

Nation-wide Interest in Tenancy Improvement.

The widespread interest in tenancy-improvement measures is best shown, however, not by examples of action already taken, but by the great volume of tenancy studies that private foundations and State and Federal agencies have been making during recent years. Studies of this nature are evidences of an awakening public concern about tenancy problems. These studies provide a knowledge of facts that is necessary in mapping out desirable action.

Many States have made tenancy studies, or are making them. A recent Kentucky law, for instance, instructed the Governor to appoint a Commission to study tenancy problems and make recommendations prior to the meeting of the

next General Assembly. This body has been appointed and is carrying out the instructions of the Legislature. Similarly the Legislature in South Carolina has requested the State Extension Service to study tenancy problems and recommend appropriate action.

Supplementing this kind of action, State agricultural colleges are seeking to bring about a better understanding of tenancy law. About 3 years ago the Missouri Agricultural Experiment Station, for example, issued a bulletin showing how the recommendations of the President's Committee on Farm Tenancy would fit into that State's tenancy law. The agricultural experiment stations in Iowa, Oklahoma, and Illinois have published results of studies of tenancy law and have outlined suggested changes. Information on tenancy law in Washington and Oregon has been issued by the Northwest Regional Council. Similar studies are under way in Arkansas, Kansas, Kentucky, and Virginia. Additional States are planning such studies.

Roads to Action.

Information that has been collected is already proving valuable in the solution of the problems. Because of the light these studies have thrown into the dark places, it is possible now to see plainly some of the major avenues that are open for action in improving tenancy conditions.

Greater security on the land for tenant families, for example, has been shown to be necessary for the welfare not only of the tenant, but also of the landlord and the community. A tenant who is uncertain as to whether he will stay on a farm long enough to benefit fully from the improvements he makes, cannot be expected to do much to maintain and improve the farm and its soil. Instead of expending labor and money for permanent improvements—improvements for future use—he buys things he can take with him on moving day.

Adjustments in tenancy law, to encourage interest by tenants in making permanent farm improvements, are now being considered by several States. Greater interest of this kind by tenants, it is believed, will protect the landlords, the tenants, and the Nation against damage to land resources,

caused by unwise conditions of tenancy. The adjustments being sought are aimed at the encouragement of longer occupancy by tenants and the creation of common landlord-tenant interests.

Stability Through Long-Term Leases.

Development of leases along lines that will foster longer terms of land occupancy and contribute to the security of farm tenants has been suggested in numerous reports. Many landlords and tenants object to using long-term leases because they do not know how long they may want their rental arrangements to run. Banks and insurance companies that own farm land often are in this position, wishing to rent out the land only until they can sell it. In other instances, landlords and tenants wish to put off making long-term leases until they are better acquainted with each other. And sometimes tenants and their landlords prefer indefinite rental periods. This may be true when tenants have definite plans to buy farms of their own in the fairly near future, or when the landlords have plans for moving back to their farms. To cover these cases, the suggestion has been made that long-term cancellable leases be used, with provisions permitting the leases to be cancelled under specified conditions, after advance notice is given.

Under the law in many States, farm leases covering several years of operation must be made in writing. In several, the law limits the term of leases to a maximum of 10 years, or to some other period. These provisions, as well as the court decisions upholding them, show that the States have the power to regulate the length of agricultural leases, if they wish to do so, but thus far few States have taken legislative steps to prevent short-term leases, or to encourage long-term leases.

Automatic Renewal of Leases.

Legislation providing for the automatic renewal of farm leases is another step that offers definite promise for improvement in tenancy conditions. In Iowa, a law passed in 1939 provides for automatic renewal of every farm lease, unless

notice of termination is given 4 months before the end of the year. If landlords wish to sell their farms, notice need not be given to the tenants, since the purchaser takes the farm subject to the existing tenancy. Where continued tenancy is intended, automatic renewal of the lease gives the tenant sufficient advance assurance of occupancy so that he can plant winter cover crops and do fall work. Early decisions about the renewal of leases help to improve farming practices by making it possible for tenant and landlord to plan ahead for the next year's operations. Many studies indicate that legislation of this kind will help solve tenancy problems.

Compensation for Disturbance.

One measure found effective for encouraging long-term occupancy is that of "compensation for disturbance." Under this procedure, either party may terminate the lease for good cause by giving notice. If either party to the lease terminates it without good cause, he must pay the other party for the damage, loss, or inconvenience suffered by the other because of the termination. This procedure is now embodied in the English law. The English landlord cannot compel a tenant to move, except under specified conditions, without paying the tenant for disturbance loss. The compensation is not limited to actual expenses incurred by the tenant in finding and moving to a new farm, but is fixed at 1 year's rent. The tenant also has the right to prove greater damages, not to exceed 2 years' rent. This measure is providing an effective bar to the unnecessary ending of leases in England. The English law, if applied in the United States, would of course represent a marked departure from prevailing practices, but the broad principle involved, with modifications, could perhaps be used advantageously in this country.

Removal of Improvements.

The growing of crops that deplete the soil is characteristic of many tenant-operated farms. Although the amount of livestock on tenant farms varies, tenants usually have fewer livestock than do owner-operators. Recent increases in the

number of livestock, especially in the South, have been chiefly on owner-operated farms.

Livestock production is a difficult undertaking for many tenants, partly because they have insufficient capital, and partly because livestock farming requires planning ahead for several years' operation. It may require buildings and fences that tenant farms do not have. If permanent buildings are needed, the landlord usually has to meet the cost. In other cases, however, temporary removable structures will meet the requirements. Unless specific provisions for removing the improvements are included in the lease, the tenancy law is the basis for determining whether the tenant can remove or be paid for the improvements he makes.

In many States the tenant's legal right to take away certain removable structures is in doubt, unless the removal is authorized in the lease. The courts sometimes have held that such equipment as temporary hogpens, watering tanks, hay carriers in barns, and temporary fences, cannot be removed by the tenant unless his lease or contract permits the removal. On the other hand, decisions in some States have allowed tenants to remove the complete equipment necessary to operate a dairy farm, including even the houses built for subtenants and croppers.

The Oklahoma Supreme Court, in a decision upholding the rule against removal of improvements made by tenants, suggested the desirability of its repeal. North Dakota, while generally retaining this rule, has recognized the pressing need for grain-storage facilities on tenant farms by permitting tenants to build and remove necessary granaries.

Compensation for Improvements.

On the basis of facts now available, many planning committees and other groups are concluding that their State tenancy law should allow tenants, when they move, to take with them any removable improvements they have installed. Some committees have also recognized that modern farming practices may require tenants to make certain improvements which cannot be moved. Soil improvements, permanent

fencing, water systems, and many modern conveniences in farm homes are of this type. Some planning groups are considering the need for establishing procedures whereby tenants can be compensated for these improvements.

Tenancy law in many States gives little protection to tenants who install improvements and build up soil fertility. As a result, unprotected tenants usually make little effort to install improvements or to conserve the soil.

To meet these conditions, several changes in State laws have been proposed. The three principal steps proposed would: (1) require that improvements be made at the expense of the landlord; (2) provide for adjustment of rental rates so that the tenant will be able to finance improvement work—under this plan the burden of improvement is borne by both tenant and landlord; and (3) require compensation to the tenant for his conservation work in case he moves away before obtaining the full benefits from it. Kansas and Louisiana have passed laws requiring compensation for improvements in certain instances.

There is special justification for laws requiring compensation to tenants for their expenses and labor in the case of soil improvements and erosion-control devices that are necessary for conserving the basic soil resources. To prevent abuses, however, any legislation of this type must be drafted to include the necessary conservation improvements that are adapted to the farming area.

Compensation for Damage.

The tenant should be assured of compensation for certain improvements he makes, and on the other hand, the landlord should be protected against willful or negligent destruction of farm property by the tenant. Compensation of the landlord by the tenant has been proposed in cases where the tenant damages the land or improvements. This compensation is included in the present English law, and balances the responsibilities of the landlord and the tenant in regard to improvements.

Regulation of Farm Rentals.

From many points of view, the amount of rent charged is the most important element in landlord-tenant agreements.

Many studies bear this out. If rents take too much of their incomes, tenants may not have money enough to adopt sound farming practices. On thousands of tenant farms the soil is being mined to exhaustion because the tenants must plant most of their land in cash crops so as to pay high cash rentals. Likewise, the customary share-crop rentals may require tenants to put large acreages in soil-depleting crops. These arrangements undermine the future productivity of the farm and work definite hardships on the tenants.

Because of recent tendencies toward tractor farming and toward consolidation of farm units, many areas now have such an oversupply of tenants that farm rentals have been bid up to higher levels than can be paid out of normal farm earnings. The addition of bonus and privilege rents to customary rentals is one way in which rents have increased. In other cases, the customary rentals themselves have been raised. The result has been an increased emphasis upon production of soil-depleting cash crops and a reduction in the amount of cash available for tenant-family living expenses.

There is general approval of the idea that urban rental rates may be regulated by the States during periods of emergency and housing shortage, but there has been only one attempt to regulate farm rental rates by State legislation. This was a Texas law adopted in 1915, which was declared unconstitutional by the Texas Supreme Court in 1929. The court decision has thrown some doubt upon the general power of the State to regulate farm rental rates but the Texas experience may indicate methods for obtaining legal regulation of rural rental rates.

The Texas law of 1915 merely adopted the customary rental rates as the maximum legal rentals in the State. A defect in this law was its failure to allow for higher rentals on farms of superior productivity and with superior improvements. The Texas decision does not indicate that, under proper circumstances, the fixing of rental rates by a State Commission, if done on the basis of full information about

a particular farm or particular groups of farms, would necessarily be ruled out.

Adjustments in the Landlord's Lien.

Adjustments also seem needed in the customary landlord's lien. Most States give the landlord, as security for rent, a first lien on the tenant's crop. Some give a lien upon the tenant's personal property. Other States have no landlord's lien law—Wisconsin and Minnesota are examples. Many students doubt the desirability of the landlord's lien law.

After the rental-limitation law in Texas was declared unconstitutional, the State Legislature used a limitation of the landlord's lien to achieve a partial regulation of rentals. The present Texas lien law provides that the landlord shall have a lien only if his share rentals do not exceed the maximum rates named in the law. This law has stabilized share rentals somewhat but does not entirely prevent excessive rentals.

From the tenant's point of view, it is found, the landlord's claim under the lien law may have three unfortunate effects. *First*, the landlord's lien may cover so much of the tenant's property that the tenant cannot get production credit from anyone besides the landlord, unless the landlord will waive his lien or guarantee the tenant's account. In the South, particularly, this has resulted in the landlord "furnishing" the tenant. Credit for fertilizer and for other items necessary in maintaining the soil and in efficient farming practices is made harder to get. *Second*, in States where the lien is not limited to the crop, but includes additional security, the tenant finds that in a year of crop failure the landlord may legally take not only the crop but also his livestock and farming equipment. Thus, because of a single crop failure, the tenant may be unable to continue farming. In most of the Southern States the landlord's lien is limited to the crop, but in Iowa, for example, the lien covers all property of the tenant except a few exempt items. *Third*, unless there has been a division of the crop before marketing, the tenant

usually has little to say about when and how the crop shall be sold, since the purchaser does not want to assume liability for the rent in case the tenant has not paid it.

Settlement of Disputes.

Better methods for settling landlord-tenant differences are greatly needed in agriculture. Landlord-tenant relationships could often be improved if there were a known and agreed-upon procedure for settling disputes quickly and cheaply. Under present court procedures, legal costs are high and court decisions often indicate that legal procedures are not well adapted to agricultural problems. Arbitration often seems preferable to court action.

By common law, an arbitration decision remains open and revocable until the sum agreed to has been paid. If one party revokes the arbitration agreement, the other party cannot enforce a settlement. He can sue for damages, it is true, but that is usually very expensive. In some States it is necessary to sue for awards made through arbitration. In others, arbitration agreements may be filed with the clerk of the court and the award will be made the judgment of the court. Arbitration agreements generally are held valid and the awards enforced, if the parties involved submit their disputes to arbitration, provided no fraud is present.

Several means of getting quick and inexpensive action in the settlement of disputes are now being used or discussed. One suggestion is that a group of qualified arbitrators be appointed, and that the parties seeking arbitration choose a member from this group to arbitrate each dispute. A second suggestion is that local committees be organized, in somewhat the same way that county debt adjustment committees are organized, to settle disputes.

An approach used in the settlement of urban landlord-tenant disputes, which appears suitable for use in rural areas, is made through the creation of a special court, or the use of regular courts that are assisted by workers trained in tenancy problems. The latter type of court has been tried in Scotland with notable success. In our own country, the District

of Columbia has a special court that handles landlord-tenant cases: the court is assisted by individuals informed on urban tenancy problems, and both landlords and tenants may appear before it without needing to hire lawyers. By this method, both groups can obtain swift and inexpensive settlement of differences. Perhaps a similar court may be useful in some rural areas.

Legal Status of Sharecroppers.

In considering the problems of tenancy, the people in many areas may have to deal with problems involving sharecroppers and farm laborers. A distinction should be made between the three groups. This is important also in the work of land use planning committees.

From an economic view, the relationship of landowners to sharecroppers is somewhat like the relationship of landlords to tenants. Legally, however, the relationship of landowners and sharecroppers is more like that of employers to employees. In other words, a sharecropper is considered as hired and working for a share of the crop as his wages, with the landowner having possession of the land. A tenant, on the other hand, has legal possession of the land for a specified period and pays rent for its use.

It may be hard to tell by actions and agreements whether the contracting parties have created a tenancy or a cropping relationship. If a farmer is a tenant, he need not allow the landlord to come upon the premises unless that is specified in the lease, and he is entitled under law to proper notice before eviction. But, if the farmer is a cropper, he is an employee who may be discharged at any time. Alabama, however, has abolished the legal distinctions between tenants and croppers by making tenants out of all farmers who retain a share of the crop. This law gives the cropper the same degree of stability and security that the tenant has.

Sharecroppers could properly be thought of as different, legally and economically, from either tenants or laborers. If based on this view, tenancy law would define a new sharecropping relationship which would give sharecroppers much

the same position as that of tenants. The new relationship might be based upon the sharecropper's possession of the property, give him title to share of the crops, offer him protection if his occupancy is terminated, and provide for improvements in agricultural liens and terms of credit. This action might greatly improve the sharecropping situation and enable the sharecropper to obtain greater security on the land.

Any significant change in present laws covering the sharecropping relationship would have to be undertaken in light of laws governing the status of tenants and wage laborers. Farmers frequently shift back and forth from one to another of these three groups. Significant change in the legal status of sharecroppers might cause landowners to eliminate sharecroppers and hire wage laborers. Similarly, a change in the farm laborer's position might increase sharecropping. To reach the goals of proper land use and economic and social security, adjustments must cover the three main types of agricultural relationships, including those of landlord-cropper and of farm employer-employee.

Leasing of State-Owned Land.

States owning agricultural land may often be able to improve farm tenancy conditions by adopting forward-looking leasing practices. This action will be helpful not only to the States and to the tenants on State-owned land but also should provide a useful example to private landowners. These States may also adopt land-sales policies that will permit purchase of farms by people who would otherwise be tenants.

Oklahoma has offered State school lands for sale with only a 5-percent down payment, the remaining payments to be made over a 25-year period at 3-percent interest. The State has put up buildings on many farms, so that the purchasers would not have immediate additional expense for improvements. The State School Land Commission is trying to provide at least partial security for its tenants through a "preference lease," under which the tenant has the first right to renew the lease or to buy the land if it is offered for sale.

If plans could be worked out and put into effect whereby States could rent their agricultural land for long periods and accept needed conservation work in place of cash rent, the States would undoubtedly find the value of their farms increasing. It seems reasonable to believe that where leasing arrangements that encourage conservation practices are used on State land, the success of these practices will influence private landlords and tenants to adopt similar practices.

Previous publications in this Series:

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No. 3—The Land Use Planning Organization.
No. 4—The Scope of Land Use Planning.
No. 5—Pooling Ideas in Land Use Planning.
No. 6—Communities and Neighborhoods in Land Use Planning.
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No. 10—Problems of Farm Tenancy.

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